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1ST SESSION

S. 445

To amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve monitoring of the domestic uses made of certain foreign commodities in order to ensure that agricultural commodities exported under agricultural trade programs are entirely produced in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25 (legislative day, JANUARY 5), 1993

Mr. CONRAD (for himself Mr. DORGAN, Mr. WELLSTONE, Mr. CRAIG, Mr. FEINGOLD, Mr. BURNS, Mr. PRESSLER, Mr. GRASSLEY, Mrs. MURRAY, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve monitoring of the domestic uses made of certain foreign commodities in order to ensure that agricultural commodities exported under agricultural trade programs are entirely produced in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Agricultural Export
5 Program Protection Act of 1993”.

1 **SEC. 2. AGRICULTURAL EXPORT PROGRAM PROTECTION.**

2 Title XV of the Food, Agriculture, Conservation, and
3 Trade Act of 1990 (Public Law 101–624) is amended by
4 adding at the end the following new subtitle:

5 **“Subtitle G—Agricultural Export**
6 **Program Protection**

7 **“SEC. 1581. DEFINITIONS.**

8 “As used in this subtitle:

9 “(1) AGRICULTURAL TRADE PROGRAM.—The
10 term ‘agricultural trade program’ means an export
11 promotion, export credit, export credit guarantee,
12 export bonus, or other export or international food
13 aid program carried out through, or administered
14 by, the Commodity Credit Corporation, including
15 such a program carried out under—

16 “(A) the Agricultural Trade Act of 1978
17 (7 U.S.C. 5601 et seq.)—

18 “(i) including the export enhancement
19 program established by section 301 of such
20 Act (7 U.S.C. 5651); but

21 “(ii) excluding the market promotion
22 program established by section 203 of such
23 Act (7 U.S.C. 5623);

24 “(B) the Agricultural Trade Development
25 and Assistance Act of 1954 (7 U.S.C. 1691 et
26 seq.);

1 “(C) section 416 of the Agricultural Act of
2 1949 (7 U.S.C. 1431); or

3 “(D) section 5 of the Commodity Credit
4 Corporation Charter Act (15 U.S.C. 714c).

5 “(2) COVERED FOREIGN COMMODITY.—The
6 term ‘covered foreign commodity’ means wheat, feed
7 grains, or soybeans produced in a foreign country
8 that is imported into the customs territory of the
9 United States.

10 “(3) ENTRY.—The term ‘entry’ means the
11 entry into, or the withdrawal from warehouse for
12 consumption in, the customs territory of the United
13 States.

14 “(4) PERSON.—The term ‘person’ includes an
15 exporter, an assignee, and a participant in an agri-
16 cultural trade program.

17 “(5) SECRETARY.—The term ‘Secretary’ means
18 the Secretary of Agriculture.

19 “(6) UNITED STATES AGRICULTURAL COMMOD-
20 ITY.—The term ‘United States agricultural commod-
21 ity’ has the same meaning given the term in section
22 102(7) of the Agricultural Trade Act of 1978 (7
23 U.S.C. 5602(7)).

1 **“SEC. 1582. MONITORING OF DOMESTIC USES MADE OF**
2 **CERTAIN FOREIGN COMMODITIES.**

3 “(a) IN GENERAL.—

4 “(1) END-USE CERTIFICATE.—An end-use cer-
5 tificate that meets the requirements of subsection
6 (b) shall be included in the documentation covering
7 the entry of any covered foreign commodity.

8 “(2) QUARTERLY REPORTS.—A consignee of a
9 covered foreign commodity (including a secondary
10 consignee of a covered foreign commodity and a con-
11 signee of a covered foreign commodity that has been
12 commingled with a commodity produced in the Unit-
13 ed States) shall submit to the Secretary a quarterly
14 report that certifies—

15 “(A) what percentage of the covered for-
16 eign commodity that is subject to an end-use
17 certificate was used by the consignee during the
18 quarter; and

19 “(B)(i) that the covered foreign commodity
20 referred to in paragraph (1) was used by the
21 consignee for the purpose stated in the end-use
22 certificate; or

23 “(ii) if ownership of the covered foreign
24 commodity is transferred, the name and ad-
25 dress and other information, as determined by

1 the Secretary, of the entity (or consignee) to
2 whom it is transferred.

3 “(b) END-USE CERTIFICATE AND QUARTERLY RE-
4 PORT CONTENT.—The end-use certificates and quarterly
5 reports required under subsection (a) shall be in such
6 form, and require such information, as the Secretary con-
7 sider necessary or appropriate to carry out this section.
8 At a minimum, the Secretary shall require that end-use
9 certificates and quarterly reports indicate—

10 “(1) in the case of the end-use certificate—

11 “(A) the name and address of the importer
12 of record of the covered foreign commodity that
13 is subject to the certificate;

14 “(B) the name and address of the con-
15 signee of the covered foreign commodity;

16 “(C) the identification of the country of or-
17 igin of the covered foreign commodity;

18 “(D) a description by class and quantity of
19 the covered foreign commodity;

20 “(E) the specification of the purpose for
21 which the consignee will use the covered foreign
22 commodity; and

23 “(F) the identification of the transporter
24 of the covered foreign commodity from the port

1 of entry to the processing facility of the con-
2 signee; and

3 “(2) in the case of the quarterly report—

4 “(A) the information referred to in sub-
5 paragraphs (A) and (B) of paragraph (1);

6 “(B) the identification of the end-use cer-
7 tificates currently held by the consignee;

8 “(C) a statement of the quantity of the
9 covered foreign commodity that is the subject of
10 each of the end-use certificates identified under
11 subparagraph (B) that was used during the
12 quarter;

13 “(D) a statement of the use made during
14 the quarter by the consignee of each quantity
15 referred to in subparagraph (C);

16 “(E) a statement of the quantity of the
17 covered foreign commodity that was exported by
18 the consignee during the quarter;

19 “(F) a statement of the quantity of the
20 covered foreign commodity that was commin-
21 gled with commodities produced in the United
22 States and the disposition of the commingled
23 commodities; and

24 “(G) a statement of the quantity of any
25 covered foreign commodity that is transferred

1 to a subsequent consignee, the name and ad-
2 dress of the consignee, and the change in end-
3 use.

4 “(c) SALES PRICE.—The Secretary may require the
5 importer or the first consignee of a covered foreign com-
6 modity to report to the Secretary the sales price of a cov-
7 ered foreign commodity that is subject to an end-use cer-
8 tificate issued under this section if the Secretary considers
9 the sales price necessary to facilitate enforcement of Unit-
10 ed States trade laws and international agreements.

11 “(d) CONFIDENTIALITY.—In carrying out this sec-
12 tion, the Secretary shall take such actions as are necessary
13 to ensure the confidentiality and privacy of purchasers of
14 covered foreign commodities.

15 “(e) ENTRY PROHIBITED UNLESS END-USE CER-
16 TIFICATE PRESENTED.—The Commissioner of Customs
17 may not permit the entry of a covered foreign commodity
18 unless the importer of record presents at the time of entry
19 of the covered foreign commodity an end-use certificate
20 that complies with the applicable requirements of this
21 section.

22 “(f) PENALTIES.—

23 “(1) CUSTOMS PENALTIES.—End-use certifi-
24 cates required under this section shall be treated as
25 any other customs documentation for purposes of

1 applying the customs laws that prohibit the entry, or
 2 the attempt to enter, merchandise by fraud, gross
 3 negligence, or negligence.

4 “(2) CIVIL PENALTIES.—Any person who know-
 5 ingly violates any requirement prescribed by the Sec-
 6 retary to carry out this section is punishable by a
 7 civil penalty in an amount not to exceed \$10,000.

8 “(g) REGULATIONS.—The Secretary shall prescribe
 9 such regulations as are necessary to carry out this section,
 10 including regulations regarding the preparation and sub-
 11 mission of the quarterly reports required under subsection
 12 (a)(2).

13 **“SEC. 1583. COMPLIANCE PROVISIONS.**

14 “Subsections (b) and (c) of section 402 of the Agri-
 15 cultural Trade Act of 1978 (7 U.S.C. 5662) shall apply
 16 to the programs authorized under this subtitle.

17 **“SEC. 1584. SUSPENSION OR DEBARMENT FOR USE OF FOR-**
 18 **EIGN AGRICULTURAL COMMODITIES IN CER-**
 19 **TAIN AGRICULTURAL TRADE PROGRAMS.**

20 “(a) HEARING.—The Commodity Credit Corporation
 21 shall provide a person with an opportunity for a hearing
 22 before suspending or debarring the person from participa-
 23 tion in an agricultural trade program for using a foreign
 24 agricultural commodity in violation of the terms and con-
 25 ditions of the program.

1 “(b) WAIVER.—

2 “(1) IN GENERAL.—The Commodity Credit
3 Corporation may waive the suspension or debarment
4 of a person from participation in an agricultural
5 trade program for using a foreign agricultural com-
6 modity in violation of the terms and conditions of
7 the program if the person demonstrates, to the satis-
8 faction of the Corporation, that—

9 “(A) the use of the foreign agricultural
10 commodity was unintentional; and

11 “(B) the quantity of the foreign agricul-
12 tural commodity used was less than 1 percent
13 of the total quantity of the commodity involved
14 in the transaction.

15 “(2) OTHER PENALTIES.—Any waiver by the
16 Commodity Credit Corporation of a suspension or
17 debarment of a person under paragraph (1) shall
18 not affect the liability of the person for any other
19 penalty imposed under an agricultural trade pro-
20 gram for the quantity of the foreign agricultural
21 commodity involved.”.

22 **SEC. 3. EFFECTIVE DATE.**

23 This Act and the amendment made by this Act shall
24 become effective 120 days after the date of enactment of
25 this Act.

